

¹The Court is unsure of plaintiff's gender, as throughout plaintiff's complaint, her attorney refers to the plaintiff with both male and female pronouns.

assertion that she is filing this action in a “timely” manner, or within sixty (60) days of the receipt of the decision of the Appeals Council, **dated November 28, 2009**. Due to the errors contained in the complaint, as well as plaintiff’s puzzling motion for extension of time to file a “brief in support” of her complaint,² the Court will order plaintiff to file an amended complaint in this action within thirty (30) days of the date of this Order. Plaintiff is reminded that because she is seeking leave to proceed in forma pauperis in this matter, the Court is required to review her complaint, pre-service, pursuant to 28 U.S.C. § 1915, for frivolousness, maliciousness and failure to state a claim. Timeliness is a salient factor in a § 1915 review, thus, if plaintiff has indeed filed the instant action after the sixty (60) day statute of limitations for appealing a denial of benefits, the Court will expect plaintiff to address this issue in her complaint. Plaintiff’s failure to file an amended complaint in a timely manner will result in a dismissal of her action, without prejudice.

²As set forth in Rule 9.02 of the Local Rules for the Eastern District of Missouri, a social security appeal proceeds as follows. Defendant has until sixty (60) days after the service of plaintiff’s complaint to file any motion to dismiss, motion to remand, and/or answer. Along with its answer, defendant is required to file a transcript of the record. Within thirty (30) days of the date of defendant’s answer, plaintiff is required to serve and file a brief in support of her appeal. The Commissioner is then required to file a brief within thirty (30) days after the service of the plaintiff’s brief. Plaintiff is then given fourteen (14) days after service of the Commissioner’s brief to file a reply brief.

Accordingly,


IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [Doc. #2] is **GRANTED**. However, the Clerk shall not issue process or cause process to be issued at this time.

IT IS FURTHER ORDERED that plaintiff **shall file an amended complaint** no later than thirty (30) days from the date of this Order. Plaintiff's failure to file an amended complaint in a timely manner will result in a dismissal of this action, without prejudice.

IT IS FURTHER ORDERED that plaintiff's motion for enlargement of time [Doc. #4] is **DENIED** without prejudice.

IT IS FURTHER ORDERED that upon the filing of the amended complaint, the action will be submitted for review pursuant to 28 U.S.C. § 1915.

Dated this 23rd day of September, 2010.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE